

ASSEMBLY BILL

No. 640

Introduced by Assembly Member Huber

February 25, 2009

An act to add Section 1203.077 to the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 640, as introduced, Huber. Sentencing: methamphetamine.

Existing law provides that any person convicted of the unlawful sale of cocaine or heroin who is eligible for and granted probation shall, as a condition of that probation, be confined in the county jail for at least 180 days, except as provided.

This bill would provide that any person convicted of selling methamphetamine who is granted probation shall be confined in a county jail for at least 120 days as a condition of probation, except as provided. By requiring confinement in county jail as a condition of probation, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1203.077 is added to the Penal Code, to
2 read:

3 1203.077. Any person convicted of violating Section 11379
4 of the Health and Safety Code, relating to the sale of
5 methamphetamine, who is eligible for and granted probation, shall
6 be confined in a county jail for at least 120 days as a condition of
7 probation. That minimum sentence shall be imposed in every case
8 unless the court finds that it is in the interest of justice not to
9 impose that sentence, and states on the record the circumstances
10 indicating why justice would be served by not imposing that
11 minimum jail sentence.

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.